

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RONALD COLLINS,)
)
)
Movant,)
) No. 2:19-cv-02266-TLP-tmp
v.)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

**ORDER ADDRESSING PRO SE MOTIONS
AND DIRECTING THE UNITED STATES TO RESPOND**

Movant Ronald Collins (“Movant”) moves for a more definite statement from the Court about this Court’s Order granting him an extension of time to file a memorandum of law in support of his petition under 28 U.S.C. § 2255 (“§ 2255 Motion”). (*See* ECF Nos. 5 & 6.) Movant specifically requests: (1) the status of his request for stay and abeyance of the § 2255 Motion; (2) clarification on the deadline for filing a supporting legal memorandum; and (3) that the Court allow him an extension of 45 days from the date that the Supreme Court decides *United States v. Davis*, No. 18-431, to file his memorandum. (ECF No. 6 at PageID 31–33.) Petitioner further moves for the appointment of counsel. (ECF No. 8.) For the reasons below, the Court DENIES AS MOOT Movant’s request for a more definite statement (ECF No. 6) and DENIES the Motion to Appoint Counsel (ECF No. 8).

ANALYSIS

I. MOTION FOR A MORE DEFINITE STATEMENT, STAY, AND EXTENSION OF TIME

Movant's § 2255 Motion, filed in April 2019, included a request for stay pending the Supreme Court's decision in *Davis*. (ECF No. 1 at PageID 9.) The Supreme Court decided *Davis* in June 2019. The request for a stay remains pending.

Along with the § 2255 Motion, he moved for an extension of time to file a memorandum of authorities. (ECF No. 2.) The Court granted the request for an extension of time. (ECF No. 5.) Despite Movant's contention that the Court gave no specific deadline in the Order, the Order gave “[Movant] forty-five (45) days from the entry of this Order to file a supporting memorandum.” (See ECF No. 6 at PageID 31-32; ECF No. 5 at PageID 29.) No further clarification is required about the deadline for filing the supporting memorandum.

Movant also “asks the Court to grant the stay and reserve his motion for extension of time to file his memorandum of law” until after the Supreme Court decides *Davis*. (ECF No. 6 at PageID 32–33.) He argues that this would benefit the Court and Government by avoiding repetitive filings. (*Id.*) As stated, *Davis* has now been decided. What is more, Movant has now supplemented his § 2255 Motion with his arguments based on the *Davis* decision. (ECF No. 7 at PageID 37–39.)

So there is no longer a need for an extension of time to address *Davis*. The request for an extension of time to file a supplement of authorities is thus DENIED AS MOOT. And Movant's renewed Motion for a More Definite Statement is DENIED AS MOOT.

II. Motion to Appoint Counsel

Movant also requests the appointment of counsel. (ECF No. 8.) “The decision to appoint counsel for a federal habeas petitioner is within the discretion of the court and is required only

where the interests of justice or due process so require.” *Mira v. Marshall*, 806 F.2d 636, 638 (6th Cir. 1986). Appointment of counsel is mandatory only when an evidentiary hearing is required. *See* § 2255 Rules, Rule 8(c) (“If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A.”). Because an evidentiary hearing is unnecessary, Movant’s Motion for Appointment of Counsel (ECF No. 8) is DENIED.

GOVERNMENT’S RESPONSE TO THE § 2255 MOTION

The Court ORDERS, under Rule 5(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts (“§ 2255 Rules”), the United States to respond to the § 2255 Motion, as amended by Petitioner’s Notice of Supplemental Supreme Court Authority (*see* ECF No. 7), within twenty-eight (28) days from the date of entry of this Order.

Under Rule 5(e), Movant may, if he chooses, submit a reply to Respondent’s answer or response within twenty-eight (28) days of service. Movant may request an extension of time to reply if his motion is filed on or before the due date of his response. The Court will address the merits of Movant’s § 2255 Motion, or of any motion filed by Respondent, after the expiration of Movant’s time to reply, as extended.

CONCLUSION

All in all, the COURT DENIES AS MOOT Movant’s request for an extension of time to file a supplement of authorities and his renewed Motion for a More Definite Statement. Movant’s Motion to Appoint Counsel is also DENIED. The Court further ORDERS Respondent to respond to the § 2255 Motion.

SO ORDERED, this 20th day of August, 2019.

s/Thomas L. Parker
THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE